

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CESAR VALENCIA,
Plaintiff,

v.

JASON MARGOLIS, *et al.*,
Defendants.

Case No. 2:21-cv-00133-RFB-EJY

REPORT AND RECOMMENDATION

On February 2, 2021, the Court issued an Order requiring Plaintiff to pay the \$402 filing fee or file a complete application to proceed *in forma pauperis* no later than April 2, 2021. ECF No. 3. The Order further stated that failure to do so would result in a recommendation to dismiss Plaintiff's case without prejudice. This would allow Plaintiff to refile a complaint with the Court under a new case number. *Id.* As of the date of this Order, Plaintiff has neither paid the filing fee nor submitted a complete *in forma pauperis* application.

On August 20, 2021, the Court issued an Order to Show Cause ("OSC") arising from Plaintiff's failure to submit a complete *in forma pauperis* application or pay the filing fee. ECF No. 4. The OSC advised Plaintiff to show cause in writing no later than September 15, 2021 why his case should not be dismissed. Plaintiff has not responded to the OSC.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

DATED THIS 22nd day of September, 2021.


ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).